

§ 1120.33

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the Freedom of Information officer immediately.

(e) An initial determination to disclose documents must provide the requested documents or provide the opportunity to inspect and/or obtain copies of the documents.

§ 1120.33 Time allowed for initial action on requests.

(a) Except as otherwise provided in this section, as soon as possible and not later than the tenth working day after the day on which the Freedom of Information Officer receives a request for records, the A&TBCB office responsible for responding to the request must issue a written determination to the requestor stating which of the requested records, will, and which will not, be released and the reason for any denial of a request.

(b) The period of 10 working days is measured from the date the request is first received and logged in by the Freedom of Information Officer.

(c) There is excluded from the period of 10 working days (or any extension) any time which elapses between the date that a requestor is notified by the A&TBCB under § 1120.26 that his or her request does not reasonably identify the records sought, and the date that the requestor furnishes a reasonable identification.

(d) There is excluded from the period of 10 working days (or any extension) any time which elapses between the date that a requestor is notified by an A&TBCB office under § 1120.53(b) that prepayment of fees is required, and the date that the requestor pays (or makes suitable arrangements to pay) the charges.

(e) The A&TBCB office taking action under § 1120.31 may extend the basic 10-day period established under paragraph (a) of this section by a period not to exceed 10 additional working days if—

(1) The office notifies the Freedom of Information Officer;

(2) The office notifies the requestor in writing within the basic 10-day period stating the reasons for the extension and the date by which the office expects to be able to issue a determination;

(3) The extension is reasonably necessary to properly process the particular request; and

(4) One or more of the following unusual circumstances require the extension:

(i) There is a need to search for and collect the requested records from field facilities or other establishments that are separate from the office processing the request;

(ii) There is a need to search for, collect, and/or appropriately examine a voluminous amount of separate and distinct records which are demanded in a single request; or

(iii) There is need for consultation with another agency having a substantial interest in the determination of the request or among two or more components of the A&TBCB. The office must conduct the consultation with all practicable speed.

(f) Should the A&TBCB fail to issue a determination within the 10-day period or any authorized extension as to an initial request, or during the period for consideration of an appeal, the requestor shall be deemed to have exhausted his or her administrative remedies with respect to such.

In the latter situation, the requestor may commence an action in an appropriate Federal district court to obtain the records.

§ 1120.34 Initial denials of requests.

(a) An initial denial of a request may be issued only for the following reasons:

(1) The record is not under the A&TBCB's control;

(2) The record has been published in the FEDERAL REGISTER or is otherwise published and available for sale;

(3) A statutory provision, provision of this part, or court order requires that the information not be disclosed;

(4) The record is exempt from mandatory disclosure under 5 U.S.C. 552(b) and the responding office has decided not to disclose it under §§ 1120.41 and 1120.42;

(5) The record is believed to be in the A&TBCB's custody but has not yet been located. (See paragraph (f) of this section.)

(b) Each initial denial of a request shall—